IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH AT HYDERABAD.

HON'BLE SRI JUSTICE V.V.S. RAO

Writ Petition Nos. 19349, 19371, 19373, 19374 and 19383 of 2005

Dated: 01st September 2005

Between:

E. Ramulamma and another … Petitioners

And

The Commissioner,

Municipal Corporation of Hyderabad.

… Respondent

Oral Order:

The petitioners in all these writ petitions are owners of residential houses in Second Bazar, Turner Street (also known as Shivaji Nagar), Secunderabad. They are before this Court praying for a writ of mandamus declaring the action of the respondent viz., Municipal Corporation of Hyderabad in trying to demolish their property without following the procedure contemplated under Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for short "the Act') as illegal and arbitrary and for a consequential direction to the respondent to desist from demolishing the structures.

All the petitioners were sent a communication by the respondent on 23-8-2005 requesting them to give consent to hand over advance possession for widening St. Mary's Road from Clock Tower to Secunderabad Railway Station to 120 ft. on the existing width. The petitioners were also informed that the Corporation would pay compensation to the affected structures besides permitting additional benefits as per G.O.Ms.No.483, Municipal Administration, dated 24-8-1998. It is the case of the petitioners that they are not willing to give consent and in spite of the same, there is a threat of demolition by the respondent for the further road widening.

When the cases are called, it is brought to the notice of this Court that on 31-8-2005 at about 9 p.m. the petitioners in Writ Petition
Nos. 19373, 19374 and 19383 of 2005 were compelled to give consent on threat of their structures being demolished by the officials of the respondent Corporation. This is, however, denied by the learned Standing Counsel for Municipal Corporation of Hyderabad who submits that as per her instructions, some of the petitioners gave their consent for handing over advance possession of the property.

These writ petitions were filed yesterday and a categorical statement is made in the affidavit that petitioners refused to give consent and requested the respondent to initiate steps under the Land Acquisition Act, 1894. Therefore, it may not be possible at this stage for the Corporation to contend that consent was given by the petitioners.

Be that as it is, as the petitioners have not given consent for road widening, to hand over possession of the affected portion, the only alternative available to the Corporation is to take recourse to Section 147 of the Hyderabad Municipal Corporation Act and acquire the land in accordance with law. Till such exercise is initiated and completed, the petitioners cannot be deprived of their right to enjoy their property nor the Corporation can demolish the structures.

The writ petitions, with the above observations, are accordingly disposed of.

(V.V. S. Rao, J)

01st September 2005.

Note:

Office to issue operative portion of the

Order by wire at party's cost.

(By order)

svs